

## **REMARKS**

Reconsideration and withdrawal of the examiner's rejections under 35 U.S.C. §§ 102 and 103 is respectfully requested in view of the following remarks. The applicant would like to thank the examiner for his time and kind cooperation in this matter.

### ***35 USC § 102 and § 103***

The examiner has rejected claims 1-10 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over GB 1 190 023. Applicants respectfully traverse this rejection.

As stated in the last response, GB '023 relates to a liquid biodegradable detergent composition based on alkali metal fatty soap and generically discloses the fact that the composition may contain at least one C<sub>8</sub> to C<sub>22</sub> unsaturated fatty acid (see page 1, line 19).

Applicants respectfully submit that a proper prima facie case under §§ 102 or 103 has not been made out with respect to the claims at least because there is no specific disclosure of castor oil or ricinoleic acid unsaturated soaps nor the specific concentration range claimed of 0.05 to 4% by wt. for these components.

GB1190023 does not disclose the percentage of unsaturated fatty acid in any example and does not contemplate that a specific low concentration of such fatty acid is required, nor does it specify that the liquid soap composition essentially consists of 0.05 to 4% by weight of the composition castor oil soap or salt of ricinoleic acid. In contrast, Examples 1 to 10 in GB 1190023 provide that the lowest amount of fatty acid which is present in the composition is 10.2% of the total composition, which goes up to a maximum of 36% of the composition.

As stated earlier, it has been unexpectedly found by way of the present invention (see examples) that a small amount of soap made from castor oil based fatty acids, their precursors or derivatives in a C<sub>12</sub>-C<sub>18</sub> soap matrix ensures high transparency in the composition, and allows for a wider formulation window such as the higher use of sodium soaps, lower use of non-soap detergents and humectants, and use of higher molecular weight fatty acid soaps. It is clear

from the present specification (see for example page 12, lines 11 to 17 and also from tables 2 and 3) that the addition of castor oil increases the transparency of the soap composition dramatically which property has been added to the claims. The results from the tables indicate that such behaviour is not seen when oleate soap is added to the compositions. Therefore it is specifically the castor oil which is required to improve the transparency of the present liquid/gel cleansing composition in a specified temperature range and the claims of the present invention are not anticipated by nor rendered obvious in view of the art of record.

Applicant's respectfully submit that assuming *arguendo* a proper *prima facie* case had been set out the unexpected results disclosed in the examples is sufficient to rebut the examiner's rejection under § 103. KSR v. Teleflex, 127 S.Ct. 1727 (2007). MPEP 716.02(a). When a person of ordinary skill is faced with "a finite number of identified, predictable solutions" to a problem and pursues "the known options within his or her technical grasp," the resulting discovery "is likely the product not of innovation but of ordinary skill and common sense." KSR, 127 S. Ct. at 1742. In other cases, though, researchers can only "vary all parameters or try each of numerous possible choices until one possibly arrive[s] at a successful result, when the prior art [gives] either no indication of which parameters [are] critical or no direction as to which of many possible choices is likely to be successful." In re O'Farrell, 853 F.2d 894, 903 (Fed. Cir. 1988). In such cases, "courts should not succumb to hindsight claims of obviousness." In re Kubin, \_\_\_ F.3d \_\_\_, No. 2008-1184, slip op. at 14 (Fed. Cir. Apr. 3, 2009). Similarly, patents are not barred just because it was obvious "to explore a new technology or general approach that seemed to be a promising field of experimentation, where the prior art gave only general guidance as to the particular form of the claimed invention or how to achieve it." In re O'Farrell, 853 F.2d at 903. Quoted in Procter and Gamble v. Teva Pharmaceutical, \_\_\_ F.3d \_\_\_, No. 2008-1404, slip op. at 10 (Fed. Cir. May 13, 2009).

The examiner contends that the Tables in applicant's specification are not commensurate in scope with the claimed invention since the examples are drawn to narrower compositions outside the scope of the broader claims, and that criticality cannot be established. In response, applicants respectfully submit that the claim limitations that the unsaturated fatty acid containing soap is transparent in a defined temperature range and consists essentially of castor oil and ricinoleic soaps in a specific narrow concentration range and further contains a specific subset of humectants is commensurate with the experimental showing.

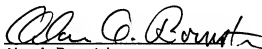
The examiner has rejected claims 1, 3-4 and 6-10 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over GB 2 005 297. Applicants respectfully traverse this rejection.

Applicants respectfully submit that GB2005297 does not disclose or suggest that very low amounts of castor oil soap or salt of ricinoleic acid improve the transparency of a liquid cleansing composition because the cleansing composition of GB2005297 is specifically creamy white and not transparent. It is clear from this document, for example, on page 2, line 20, that GB 2005297 is directed toward formulating a creamy white liquid soap and therefore teaches away from transparent soap. Furthermore, GB2005297 does not specify the amount of unsaturated fatty acid present in the composition and it would not be obvious to the skilled person how much fatty acids is required because the requirement is to produce a creamy white soap and not a transparent soap as with the present invention.

### CONCLUSION

In light of the above remarks, applicants submit that the claims now pending in the present application is in condition for allowance. Reconsideration and allowance of the application is respectfully requested. The examiner is invited to contact the undersigned if there are any questions concerning the case.

Respectfully submitted,



Alan A. Bornstein  
Registration No. 40,919  
Attorney for Applicant(s)

AAB/ss  
(201) 894-2180